
By: **Senators Dyson, Munson, and Stoltzfus**
Introduced and read first time: February 6, 2004
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit for Preservation and Conservation Easements -**
3 **Transferability**

4 FOR the purpose of allowing an individual to transfer certain tax credits for
5 preservation and conservation easements to another individual under certain
6 circumstances; authorizing an individual to whom a certain credit is transferred
7 to claim a credit against the Maryland income tax under certain circumstances;
8 providing a subtraction modification under the Maryland income tax for certain
9 amounts received by an individual in consideration of the transfer of certain tax
10 credits; providing for the application of this Act; and generally relating to the
11 transfer of certain tax credits for preservation and conservation easements.

12 BY adding to
13 Article - Tax - General
14 Section 10-207(h)
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2003 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Tax - General
19 Section 10-723
20 Annotated Code of Maryland
21 (1997 Replacement Volume and 2003 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Tax - General**

25 10-207.

26 (H) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES
27 ANY AMOUNT RECEIVED BY AN INDIVIDUAL IN CONSIDERATION OF THE TRANSFER
28 OF A CREDIT ALLOWED UNDER § 10-723 OF THIS TITLE.

1 10-723.

2 (a) (1) An individual may claim a credit against the State income tax as
3 provided in this section for an easement conveyed to the Maryland Environmental
4 Trust or the Maryland Agricultural Land Preservation Foundation for the purpose of
5 preserving open space, natural resources, agriculture, forest land, watersheds,
6 significant ecosystems, viewsheds, or historic properties, if:

7 (i) the easement is perpetual; and

8 (ii) the easement is accepted and approved by the Board of Public
9 Works.

10 (2) Subject to subsection (c)(2) of this section, the credit under this
11 section shall be allowed for the taxable year in which the donation is approved by the
12 Board of Public Works.

13 (b) (1) Except as otherwise provided in this section, the amount of the credit
14 allowed under this section is the amount by which the fair market value of the
15 property before the conveyance of the easement exceeds the fair market value of the
16 property after the conveyance of the easement.

17 (2) The fair market value of the property before and after the conveyance
18 of the easement shall be substantiated by an appraisal prepared by a certified real
19 estate appraiser, as defined under § 16-101 of the Business Occupations and
20 Professions Article.

21 (3) The amount of the credit shall be reduced by the amount of any
22 payment received for the easement.

23 (c) (1) For any taxable year, the credit allowed under this section may not
24 exceed the lesser of:

25 (i) the State income tax for that taxable year; or

26 (ii) \$5,000.

27 (2) If the credit otherwise allowable under subsection (b) of this section
28 exceeds the limit under paragraph (1) of this subsection, an individual may apply the
29 excess as a credit against the State income tax for succeeding taxable years until the
30 earlier of:

31 (i) the full amount of the excess is used; or

32 (ii) the expiration of the 15th taxable year after the taxable year in
33 which the donation was approved by the Board of Public Works.

34 (3) For each taxable year, the amount carried forward to the taxable year
35 under paragraph (2) of this subsection may not exceed the limit under paragraph (1)
36 of this subsection.

1 (d) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL
2 WHO CONVEYS AN EASEMENT UNDER THIS SECTION MAY TRANSFER ALL OR PART OF
3 THE UNUSED AMOUNTS OF THE CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS
4 SECTION TO ONE OR MORE INDIVIDUALS.

5 (2) A CREDIT MAY NOT BE TRANSFERRED UNDER THIS SUBSECTION
6 UNLESS THE INDIVIDUAL TRANSFERRING A CREDIT OR PORTION OF A CREDIT
7 ALLOWABLE UNDER THIS SECTION:

8 (I) HAS NOT CLAIMED THE CREDIT OR ANY PORTION OF THE
9 CREDIT THAT IS TRANSFERRED; AND

10 (II) NOTIFIES THE MARYLAND ENVIRONMENTAL TRUST OR THE
11 MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION WITHIN 30 DAYS
12 AFTER THE EFFECTIVE DATE OF THE TRANSFER ON A FORM APPROVED BY THE
13 COMPTROLLER IN REGULATION.

14 (3) AN INDIVIDUAL TO WHOM ANY PORTION OF CREDIT IS
15 TRANSFERRED BY AN INDIVIDUAL UNDER THIS SECTION:

16 (I) MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX THAT
17 DOES NOT EXCEED THE AMOUNT OF THE CREDIT TRANSFERRED UNDER THIS
18 SUBSECTION, BY FILING WITH ITS TAX RETURN A COPY OF THE FORM EVIDENCING
19 THE TRANSFER OF THE TAX CREDIT; AND

20 (II) IS SUBJECT TO THE SAME REQUIREMENTS AND LIMITATIONS
21 IN CLAIMING THE CREDIT UNDER THIS SECTION THAT WOULD HAVE BEEN
22 APPLICABLE TO THE INDIVIDUAL TRANSFERRING THE CREDIT.

23 (E) The credit under this section may not be claimed for a required dedication
24 of open space for the purpose of fulfilling density requirements to obtain a subdivision
25 or building permit.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2004, and shall be applicable to all taxable years beginning after December 31,
28 2003.